

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 275, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 31-871, IDAHO CODE, TO REVISE PROCEDURES REGARDING CLASSIFICATION AND RETENTION OF RECORDS; AMENDING CHAPTER 2, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-217, IDAHO CODE, TO PROVIDE PROCEDURES FOR RETENTION OF COUNTY ELECTION RECORDS; AMENDING SECTION 34-408A, IDAHO CODE, TO REVISE PROCEDURES REGARDING ELECTION DAY REGISTRATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-502, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT THE COUNTY CLERK SHALL DELIVER IN WRITING TO EACH PRECINCT COMMITTEEMAN A CERTAIN NOTICE; AMENDING SECTION 34-624, IDAHO CODE, TO REVISE REQUIREMENTS FOR A PRECINCT COMMITTEEMAN; AMENDING SECTION 34-708A, IDAHO CODE, TO REVISE QUALIFICATIONS FOR INDEPENDENT CANDIDATES FOR PRESIDENT AND VICE-PRESIDENT AND TO PROVIDE RESIDENCY QUALIFICATIONS FOR PETITION CIRCULATORS; AMENDING SECTION 34-732, IDAHO CODE, TO REVISE PROCEDURES FOR SELECTION OF CANDIDATES FOR NOMINATION IN PRESIDENTIAL PRIMARIES; AMENDING SECTION 34-903, IDAHO CODE, TO REVISE WHAT SHALL APPEAR ON ELECTION BALLOTS; AMENDING SECTION 34-910, IDAHO CODE, TO PROVIDE THAT UPON RECEIPT OF THE BALLOTS AND SUPPLIES, THE CHIEF JUDGE OF ELECTIONS OR OTHER DESIGNATED JUDGE MUST RETURN A WRITTEN RECEIPT TO THE COUNTY CLERK; AMENDING SECTION 34-1005, IDAHO CODE, TO REVISE PROCEDURES FOR RETURN OF AN ABSENTEE BALLOT; AMENDING SECTION 34-1201, IDAHO CODE, TO REVISE PROCEDURES FOR CANVASS OF VOTES; AMENDING SECTION 34-1402, IDAHO CODE, TO REVISE REGISTRATION PROVISIONS; AMENDING CHAPTER 14, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1413, IDAHO CODE, TO PROVIDE FOR MODIFIED PROCEDURES FOR CERTAIN POLITICAL SUBDIVISION ELECTIONS; AMENDING SECTION 34-1802, IDAHO CODE, TO REVISE DATES FOR INITIATIVE PETITIONS; AMENDING SECTION 34-2301, IDAHO CODE, TO REVISE PROVISIONS AND PROCEDURES RELATING TO AN APPLICATION FOR RECOUNT OF BALLOTS; AMENDING SECTION 34-2302, IDAHO CODE, TO PROVIDE THAT THE RECOUNT APPLICATION SHALL BE REMITTED TO THE ATTORNEY GENERAL OR COUNTY CLERK AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-2303, IDAHO CODE, TO PROVIDE THAT THE ATTORNEY GENERAL OR COUNTY CLERK SHALL CAUSE ALL BALLOT BOXES IN PRECINCTS TO BE RECOUNTED TO BE IMPOUNDED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-2304, IDAHO CODE, TO PROVIDE THE ATTORNEY GENERAL OR COUNTY CLERK SHALL ISSUE AN ORDER FOR RECOUNT; AMENDING SECTION 34-2305, IDAHO CODE, TO REVISE THE MANNER OF RECOUNTING; AMENDING SECTION 34-2306, IDAHO CODE, TO REVISE PROVISIONS REGARDING WHEN THE PERSON IS RELIEVED OF COSTS OF THE RECOUNT; AMENDING SECTION 34-2307, IDAHO CODE, TO REVISE PROVISIONS WHEN A GENERAL RECOUNT IS ORDERED; AMENDING SECTION 34-2308, IDAHO CODE, TO REVISE PROCEDURES WHEN A CANDIDATE OR A PERSON ON EITHER SIDE OF A MEASURE DISAGREES WITH RECOUNT RESULTS; AMENDING SECTION 34-2309, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN AUTOMATIC RECOUNT; AMENDING CHAPTER 23, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SEC-

1 TION 34-2313, IDAHO CODE, TO PROVIDE RECOUNT PROCEDURES FOR AUTOMATED
2 TABULATION SYSTEMS; AND DECLARING AN EMERGENCY.

3 Be It Enacted by the Legislature of the State of Idaho:

4 SECTION 1. That Section 31-871, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 31-871. CLASSIFICATION AND RETENTION OF RECORDS. (1) County records
7 shall be classified as follows:

8 (a) "Permanent records" shall consist of, but not be limited to, the
9 following: proceedings of the governing body, ordinances, resolu-
10 tions, building plans and specifications for commercial projects and
11 government buildings, bond register, warrant register, budget records,
12 general ledger, cash books and records affecting the title to real prop-
13 erty or liens thereon, and other documents or records as may be deemed of
14 permanent nature by the board of county commissioners.

15 (b) "Semipermanent records" shall consist of, but not be limited to,
16 the following: claims, contracts, canceled checks, warrants, dupli-
17 cate warrants, license applications, building applications for commer-
18 cial projects and government buildings, departmental reports, purchase
19 orders, vouchers, duplicate receipts, bonds and coupons, ~~registration~~
20 ~~and other election records excluding election ballots and tally books,~~
21 financial records, and other documents or records as may be deemed of
22 semipermanent nature by the board of county commissioners.

23 (c) "Temporary records" shall consist of, but not be limited to, the
24 following: correspondence not related to subsections (1) and (2)
25 of this section, building applications, plans, and specifications
26 for noncommercial and nongovernment projects after the structure or
27 project receives final inspection and approval, cash receipts subject
28 to audit, ~~election ballots and tally books,~~ and other records as may be
29 deemed temporary by the board of county commissioners.

30 (d) Those records not included in subsection (1) (a), (b) or (c) of this
31 section shall be classified as permanent, semipermanent or temporary by
32 the board of county commissioners and upon the advice of the office of
33 the prosecuting attorney.

34 (2) County records shall be retained as follows:

35 (a) Permanent records shall be retained for not less than ten (10)
36 years.

37 (b) Semipermanent records shall be kept for not less than five (5) years
38 after date of issuance or completion of the matter contained within the
39 record.

40 (c) Temporary records shall be retained for not less than two (2) years.

41 (d) Records may only be destroyed by resolution of the board of county
42 commissioners after regular audit and upon the advice of the prosecut-
43 ing attorney. A resolution ordering destruction must list, in detail,
44 records to be destroyed. Such disposition shall be under the direction
45 and supervision of the elected official or department head responsible
46 for such records.

(e) The provisions of this section shall control the classification and retention schedules of all county records unless otherwise provided in Idaho Code or any applicable federal law.

SECTION 2. That Chapter 2, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-217, Idaho Code, and to read as follows:

34-217. RETENTION OF COUNTY ELECTION RECORDS. County election records shall be maintained by the county clerk for the time periods outlined in this section. Records shall be maintained for the period specified beginning with the date the record is created or has become no longer valid, whichever is greater.

(1) The following records shall be retained for not less than five (5) years:

(a) Voter registration cards for electors whose registration has been terminated.

(b) Combination election record and poll book.

(c) Declaration of candidacy.

(d) Maps of precinct boundaries with legal descriptions.

(e) List of absentee voters.

(2) The following shall be retained for two (2) years:

(a) Correspondence relating to an elector's voter registration.

(b) Completed absentee ballot request forms.

(3) The following shall be maintained for one (1) year:

(a) Tally books.

(b) Absentee ballot affidavit envelopes.

(c) Notice of election.

(d) Personal identification affidavit.

(e) Voted ballots.

(f) Unvoted ballots from the primary election.

(g) Ballot tracking logs.

(h) Any ballots that were required to be duplicated before being counted.

(i) Automated tabulation election logs.

(j) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device.

(k) Record of the number of ballots printed and furnished to each polling place.

(4) Other election supplies including, but not limited to, unused ballots, official election stamps, spoiled ballots may be disposed of sixty (60) days following the deadline for requesting a recount or filing an election contest pursuant to chapters 20 and 21, title 34, Idaho Code.

SECTION 3. That Section 34-408A, Idaho Code, be, and the same is hereby amended to read as follows:

34-408A. ELECTION DAY REGISTRATION. An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration card, making an oath in the form prescribed by the secretary

1 of state and providing proof of residence. An individual may prove residence
2 for purposes of registering by:

3 (1) Showing an Idaho driver's license or Idaho identification card is-
4 sued through the department of transportation; or

5 (2) Showing any document which contains a valid address in the precinct
6 together with a picture identification card; or

7 (3) Showing a current valid student photo identification card from a
8 ~~post-secondary~~ postsecondary educational institution in Idaho accompanied
9 with a current student fee statement that contains the student's valid ad-
10 dress in the precinct ~~together with a picture identification card.~~

11 Election day registration provided in this section shall apply to all
12 elections conducted under title 34, Idaho Code, and to school district and
13 municipal elections.

14 An individual who is eligible to vote may also register, upon providing
15 proof of residence, at the "absent electors' polling place" provided in sec-
16 tion 34-1006, Idaho Code.

17 SECTION 4. That Section 34-502, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 34-502. COUNTY CENTRAL COMMITTEE -- MEMBERS -- OFFICERS -- DUTIES OF
20 CHAIRMAN -- NOTICE TO CHAIRMAN. The county central committee of each polit-
21 ical party in each county shall consist of the precinct committeemen rep-
22 resenting the precincts within the county and the county chairman elected
23 by the precinct committeemen. The precinct committeemen within each county
24 shall meet at the county seat within ten (10) days after the primary election
25 and at the time and date designated by the incumbent county chairman, and
26 shall organize by electing a chairman, vice chairman, a secretary, a state
27 committeeman, a state committeewoman, and such other officers as they may
28 desire who shall hold office at the pleasure of the county central committee
29 or until their successors are elected.

30 Unless state party rules, adopted as provided in section 34-505, Idaho
31 Code, provide otherwise, when a vacancy exists in the office of county cen-
32 tral committee chairman, it shall be the duty of the state central commit-
33 tee chairman to call a meeting of the precinct committeemen of the county,
34 and the precinct committeemen shall proceed to elect a chairman of the county
35 central committee for the balance of the unexpired term.

36 The county central committee shall fill by appointment all vacancies
37 that occur or exist in the office of precinct committeeman who shall be a
38 qualified elector of the precinct.

39 The county clerk shall deliver in writing to the chairman of the county
40 central committee of each political party on or before January 20 of each
41 year in which a general election is to be held, a list of the election
42 precincts in the county and the names and addresses of the precinct com-
43 mitteemen who were elected at the last primary election, or who have since
44 been appointed as precinct committeemen, as such election or appointment is
45 shown on the records of the county clerk. If the county clerk has no record
46 of precinct committeemen, he shall in writing, so inform the chairman of the
47 county central committee.

48 The chairman of the county central committee shall on or before Febru-
49 ary 1 of each year in which a general election is to be held, and at such other

1 times as changes occur, certify to the county clerk the names and addresses
 2 of the precinct committeemen of his political party. ~~Immediately upon re-~~
 3 ~~ceipt of certification, the county clerk shall deliver in writing to each~~
 4 ~~precinct committeeman a notice of the provisions of subsection (1) of sec-~~
 5 ~~tion 34-406, Idaho Code.~~

6 SECTION 5. That Section 34-624, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 34-624. ELECTION OF PRECINCT COMMITTEEMEN -- QUALIFICATIONS. (1) At
 9 the primary election, 1980, and every two (2) years thereafter, a precinct
 10 committeeman for each political party shall be elected in every voting
 11 precinct within each county. The term of office of a precinct committeeman
 12 shall be from the eighth day following the primary election until the eighth
 13 day following the next succeeding primary election.

14 (2) No person shall be elected to the office of precinct committeeman
 15 unless he has attained the age of eighteen (18) years at the time of his elec-
 16 tion, is a citizen of the United States, a registered elector of and shall
 17 have resided within the voting precinct for a period of six (6) months next
 18 preceding his election.

19 (3) Each candidate shall file a declaration of candidacy with the
 20 county clerk.

21 (4) No filing fee shall be charged any candidate at the time of his fil-
 22 ing his declaration of candidacy.

23 SECTION 6. That Section 34-708A, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 34-708A. INDEPENDENT CANDIDATES FOR PRESIDENT AND VICE-PRESI-
 26 DENT. Persons who desire to be independent candidates for the offices of
 27 president and vice-president, must file, prior to August 25 of the election
 28 year, declarations of candidacy as independent candidates. Such declara-
 29 tions must state that such persons are offering themselves as independent
 30 candidates and must declare that they have no political party affiliation.
 31 The declarations shall have attached thereto a petition signed by ~~a number~~
 32 ~~of one thousand (1,000) qualified electors not less than one percent (1%) of~~
 33 ~~the number of votes cast in this state for presidential electors at the pre-~~
 34 ~~vious general election at which a president of the United States was elected.~~

35 The candidates for president and vice-president shall be considered as
 36 candidates for one (1) office, and only one (1) such petition need be filed
 37 for both offices.

38 Signatures on the petitions required in this section shall be verified
 39 in the manner prescribed in section 34-1807, Idaho Code, provided that the
 40 petition circulators are not required to be Idaho residents.

41 SECTION 7. That Section 34-732, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 34-732. SELECTION OF CANDIDATES FOR NOMINATION IN PRESIDENTIAL PRI-
 44 MARY. Each qualified elector shall have the opportunity to vote on the offi-
 45 cial presidential preference primary ballot for one (1) person to be the can-

1 didate for nomination by a party for president of the United States. The name
 2 of any candidate for a political party nomination for president of the United
 3 States shall be printed on the ballots only:

4 (1) If the secretary of state shall have determined, in his sole dis-
 5 cretion, that the person's candidacy is generally advocated or recognized
 6 in national news media throughout the United States. For the purpose of
 7 promoting the aspect of a regional primary in this regard, the secretary of
 8 state may consult with the chief election officers of neighboring states
 9 which conduct a presidential primary election on the third Tuesday in May.
 10 The secretary of state shall publish the names of such persons determined by
 11 him to be such candidates, together with their party affiliation, not less
 12 than ~~sixty (60)~~ seventy-five (75) days prior to the date of the presidential
 13 preference primary; or

14 (2) Any candidate who was not placed upon the ballot by the secretary of
 15 state under the provisions of subsection (1) of this section shall be placed
 16 upon the ballot after filing a declaration of candidacy accompanied by a
 17 petition containing signatures of five hundred (500) qualified electors and
 18 a one thousand dollar (\$1,000) filing fee. The declaration shall be filed
 19 with the secretary of state no later than the ~~fiftieth~~ sixtieth day prior to
 20 the date of the presidential preference primary.

21 SECTION 8. That Section 34-903, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 34-903. SECRETARY OF STATE TO PRESCRIBE FORM AND CONTENTS OF ALL BAL-
 24 LOTS AND RELATED DOCUMENTS. (1) The secretary of state shall, in a manner
 25 consistent with the election laws of this state, prescribe the form for
 26 all ballots, absentee ballots, diagrams, sample ballots, ballot labels,
 27 voting machine labels or booklets, certificates, notices, declarations of
 28 candidacy, affidavits of all types, lists, applications, poll books, tally
 29 sheets, registers, rosters, statements and abstracts if required by the
 30 election laws of this state.

31 (2) The secretary of state shall prescribe the arrangement of the mat-
 32 ter to be printed on each kind of ballot and label, including:

33 (a) The placement and listing of all offices, candidates and issues
 34 upon which voting is statewide, which shall be uniform throughout the
 35 state.

36 (b) The listing of all other candidates required to file with him, and
 37 the order of listing all offices and issues upon which voting is not
 38 statewide.

39 (3) The names of candidates for legislative or special district offices
 40 shall be printed only on the ballots and ballot labels furnished to voters of
 41 such district.

42 (4) The names of ~~all~~ candidates which appear on ~~any~~ election ballots for
 43 federal, state, county and city offices shall be rotated in the manner de-
 44 termined by the secretary of state. The order of candidates for office in
 45 other elections shall be determined by applying the first letter of each can-
 46 didate's last name to a random alphabet selected prior to each election by
 47 the secretary of state.

48 (5) No candidate's name may appear on a ballot for more than one (1)
 49 office, except that a candidate for precinct committeeman may seek one (1)

1 additional office upon the same ballot. The provisions of this subsection
 2 shall not apply to the election of electors of president and vice-president
 3 of the United States.

4 SECTION 9. That Section 34-910, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 34-910. DUTY OF COUNTY CLERK TO FURNISH SUFFICIENT BALLOTS TO EACH
 7 VOTING PRECINCT -- RECORD OF NUMBER OF BALLOTS PRINTED AND FURNISHED. It
 8 shall be the duty of the county clerk to furnish and cause to be delivered a
 9 sufficient number of election ballots to the judges of elections of each vot-
 10 ing precinct. The ballots shall be delivered to the polling place within the
 11 precinct on or before the opening of the polls for the election together with
 12 the official stamp and ink pad in sealed packages. Upon ~~delivery~~ receipt of
 13 the ballots and supplies, the chief judge of elections or other designated
 14 judge must return a written receipt to the county clerk.

15 The county clerk shall keep a record of the number of ballots printed and
 16 furnished to each polling place within the county and preserve the same for
 17 one (1) year.

18 SECTION 10. That Section 34-1005, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 34-1005. RETURN OF ABSENTEE BALLOT. The return envelope shall be
 21 mailed or delivered to the officer who issued the same; provided, that an
 22 absentee ballot must be received by the issuing officer by 8:00 p.m. on the
 23 day of election before such ballot may be counted.

24 Upon receipt of an absent elector's ballot the county clerk of the
 25 county wherein such elector resides shall verify the authenticity of the
 26 affidavit and shall write or stamp upon the envelope containing the same,
 27 the date and hour such envelope was received in his office and record the
 28 information pursuant to section 34-1011, Idaho Code. He shall safely keep
 29 and preserve all absent electors' ballots unopened until the time prescribed
 30 for delivery to the ~~judges in accordance with this act~~ polls or to the central
 31 count ballot processing center.

32 SECTION 11. That Section 34-1201, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 34-1201. CANVASS OF VOTES. (1) When the polls are closed the judges
 35 must immediately proceed to count the ballots cast at such election. The
 36 counting must be continued without adjournment until completed and the re-
 37 sult declared.

38 (2) If the precinct has duplicate ballot boxes, the counting ~~shall~~ may
 39 begin after five (5) ballots have been cast. At this time, the additional
 40 clerks shall close the first ballot box and retire to the counting area and
 41 count the ballots. Upon completion of this counting the clerks shall return
 42 the ballot box and then proceed to count all of the ballots cast in the sec-
 43 ond box during this period. This counting shall continue until the polls are
 44 closed at which time all election personnel shall complete the counting of
 45 the ballots.

(3) The county clerk may designate paper ballots be returned to a central count location for counting by special counting boards. If the paper ballots are to be counted at a central count location, a procedure may be adopted to deliver the voted ballots to the county clerk prior to the closing of the polls. The results of this early count shall not be released to the public until after 8:00 p.m. of election day.

SECTION 12. That Section 34-1402, Idaho Code, be, and the same is hereby amended to read as follows:

34-1402. REGISTRATION. All electors must register with the county clerk before being able to vote in any primary, general, special or any other election conducted in this state. The county clerk shall determine, for each registered elector, the elections for which he is eligible to vote by a determination of the applicable code areas. The determination of tax code area shall be made for all political subdivisions including those otherwise exempt from the provisions of this chapter.

The county clerk shall conform to the provisions of chapter 4, title 34, Idaho Code, in the administration of registration for all political subdivisions within the county. ~~The county clerk shall appoint each city clerk for any city within the county and each election official designated by a political subdivision, as an at-large registrar as provided in section 34-406, Idaho Code, except that no compensation shall be paid by the county clerk for electors registered by these special registrars.~~

SECTION 13. That Chapter 14, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1413, Idaho Code, and to read as follows:

34-1413. PROCEDURES FOR CERTAIN POLITICAL SUBDIVISION ELECTIONS TO MODIFY VOTING PROCEDURES. Any county that has a political subdivision in which there is more than one (1) county contained in the political subdivision boundaries and that wishes to modify voting procedures shall submit an election plan to the secretary of state for approval for the modified voting procedures to be effective at least forty (40) calendar days prior to an election. The secretary of state shall notify the political subdivision of its approval, disapproval and, if it is disapproved, what remedial measures may be taken that would allow for approval of the voting plan.

SECTION 14. That Section 34-1802, Idaho Code, be, and the same is hereby amended to read as follows:

34-1802. INITIATIVE PETITIONS -- TIME FOR GATHERING SIGNATURES -- TIME FOR SUBMISSION OF SIGNATURES TO THE COUNTY CLERK -- TIME FOR FILING. (1) Except as provided in section 34-1804, Idaho Code, petitions for an initiative shall be circulated and signatures obtained beginning upon the date that the petitioners receive the official ballot title from the secretary of state and extending eighteen (18) months from that date or April 30 of the year that an election on the initiative will be held of the next general election, whichever occurs earlier. The last day for circulating petitions and

1 obtaining signatures shall be the last day of April in the year an election
2 on the initiative will be held.

3 (2) The person or persons or organization or organizations under whose
4 authority the measure is to be initiated shall submit the petitions contain-
5 ing signatures to the county clerk for verification pursuant to the provi-
6 sions of section 34-1807, Idaho Code. The signatures required shall be sub-
7 mitted to the county clerk not later than the close of business on the first
8 day of May in the year an election on the initiative will be held, or eighteen
9 (18) months from the date the petitioner receives the official ballot title
10 from the secretary of state, whichever is earlier.

11 (3) The county clerk shall, within sixty (60) calendar days of the dead-
12 line for the submission of the signatures, verify the signatures contained
13 in the petitions, but in no event shall the time extend beyond the last day of
14 June in the year an election on the initiative will be held.

15 (4) Initiative petitions with the requisite number of signatures at-
16 tached shall be filed with the secretary of state not less than four (4)
17 months before the election at which they are to be voted upon.

18 SECTION 15. That Section 34-2301, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 34-2301. APPLICATION FOR RECOUNT OF BALLOTS. (1) Any candidate for
21 federal, state, county or municipal office desiring a recount of the ballots
22 cast in any nominating or general election or person supporting or opposing
23 a state, county or city measure, may apply to the attorney general therefor,
24 within twenty (20) days of the canvass of such election, by the state board of
25 canvassers if for federal and state office, or within twenty (20) days of the
26 canvass of such election by the county commissioners if for a county or mu-
27 nicipal office.

28 (2) Candidates for all other offices and supporters and opponents to
29 all other ballot measures desiring a recount may apply to the county clerk
30 within twenty (20) days of the canvass of said election by the board of county
31 commissioners.

32 SECTION 16. That Section 34-2302, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 34-2302. PRECINCTS SPECIFIED FOR RECOUNT -- REMITTANCE. In his appli-
35 cation he shall state the precinct or precincts in which he desires recount
36 to be made and shall remit to the attorney general or county clerk, pursuant
37 to section 34-2301, Idaho Code, together with his application the sum of one
38 hundred dollars (\$100.00) for each such precinct in which he desires a re-
39 count made.

40 SECTION 17. That Section 34-2303, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 34-2303. BALLOTS ORDERED IMPOUNDED BY ATTORNEY GENERAL. Upon receiv-
43 ing the application for recount together with the remittance required by ~~the~~
44 preceding section 34-2302, Idaho Code, the attorney general or county clerk,
45 pursuant to section 34-2301, Idaho Code, shall cause all ballot boxes used in

1 such election in the precinct or precincts in which recount is to be made to
 2 be immediately impounded and taken into custody by the sheriff of the county
 3 or counties in which precinct or precincts are located. In the event that the
 4 recount is of the results of a primary election the ballot boxes used to hold
 5 the blank half of the ballot shall also be impounded.

6 SECTION 18. That Section 34-2304, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 34-2304. ORDER FOR RECOUNT -- PROCEDURE -- NOTICE. The attorney gen-
 9 eral or county clerk shall then issue an order for recount. The order shall
 10 name the prior election judges and clerks of the precinct to act in the same
 11 capacity and receive the same compensation as they did on election day. The
 12 order shall provide for the place where the recount is to be made; that all
 13 candidates named on the ballot for the office contested, or a representative
 14 of either or all of them, may be present to watch the counting; and that ev-
 15 ery other person interested may be present. The order shall state the date on
 16 which the recount is to be made which shall not be more than ten (10) days from
 17 the date of the order. Copies of the order shall be mailed to each candidate
 18 named on the ballot for the office to be recounted.

19 SECTION 19. That Section 34-2305, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 34-2305. MANNER OF RECOUNTING. At the time and place fixed for re-
 22 counting the ballots cast in any precinct all ballots shall be recounted in
 23 plain view of the candidates or their representatives, and if the recount is
 24 of a primary election the blank ballots shall be counted against the ballots
 25 that were voted. The recount shall commence at the time and place so ordered,
 26 and shall continue until the recount is finished and the results tabulated.
 27 ~~The recount shall be conducted under the same conditions and in the same man-~~
 28 ~~ner as the original count.~~ The attorney general shall be the final authority
 29 concerning any question which arises during the recount for federal, state,
 30 county or municipal elections. The county prosecuting attorney shall be the
 31 final authority concerning any question that arises during the recount of
 32 other elections.

33 SECTION 20. That Section 34-2306, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 34-2306. DIFFERENCE REVEALED BY RECOUNT -- CANDIDATE RELIEVED OF
 36 COSTS. If the results of the recount indicate a difference, which if pro-
 37 jected across all the precincts of the office in question would change the
 38 result of the election in favor of the candidate requesting the recount or
 39 change in the measure being recounted, then the cost of such recount shall
 40 be borne by the county or state and the sums of money theretofore paid for
 41 the recount shall be returned to the candidate or person who requested the
 42 recount of a ballot measure.

43 In order to be relieved of the costs of the recount, the candidate or
 44 person must request that at least twenty (20) precincts containing not less
 45 than five thousand (5,000) votes cast be recounted if for a federal or state

1 office or measure, or five (5) precincts containing not less than one thou-
 2 sand two hundred fifty (1,250) votes cast be recounted for a state legisla-
 3 tive district office, or at least two (2) precincts having not less than five
 4 hundred (500) votes cast be recounted for a county office or measure, or two
 5 (2) precincts having not less than two hundred (200) votes cast to be re-
 6 counted in city or district elections.

7 SECTION 21. That Section 34-2307, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 34-2307. WHEN GENERAL RECOUNT ORDERED. If the candidate or person who
 10 requested the recount is relieved of the costs of the recount as described in
 11 section 34-2306, Idaho Code, the attorney general shall require a recount to
 12 be made in all the remaining precincts of the office in question. The state
 13 shall pay for a general recount of a federal, state, or legislative district
 14 office, while the county shall pay for a general recount of a county, city or
 15 district office.

16 SECTION 22. That Section 34-2308, Idaho Code, be, and the same is hereby
 17 amended to read as follows:

18 34-2308. CANDIDATE DISAGREEING WITH RECOUNT RESULTS -- APPEAL. (1)
 19 Any candidate or person may appeal the results of a recount or the determina-
 20 tion that a recount is not necessary when:

21 (a) Any candidate for the office or the person on either side of a mea-
 22 sure for which a recount has been requested disagrees with the results
 23 of the recount and alleges that the law has been misinterpreted or mis-
 24 applied;

25 (b) It appears that a different application or interpretation of the
 26 law would have required a general recount where no general recount was
 27 ordered; or

28 (c) It appears that a different application or interpretation of the
 29 law would not have required a general recount where a general recount
 30 was ordered;

31 then the candidate claiming the misinterpretation or the misapplication of
 32 law may appeal to the district court in the county concerned if the office
 33 is a county, ~~or~~ municipal or district office or to the district court in Ada
 34 county if the office is a federal or state office.

35 (2) The submittal on appeal shall be by brief and submitted within
 36 twenty-four (24) hours following the recount. The appeal submittal shall
 37 be served upon the attorney general of Idaho or the county prosecuting at-
 38 torney within twenty-four (24) hours of filing it within the district court.
 39 The appeal submittal shall also be served upon the opposing candidate(s)
 40 or representatives of the pro and con sides of the ballot measure within
 41 twenty-four (24) hours of filing the appeal in the district court.

42 (3) The attorney general, in consultation with the secretary of state,
 43 may respond to the submittal by brief or the prosecuting attorney, in consul-
 44 tation with the county clerk, may respond for district elections.

45 (4) The opposing candidate(s) or parties, regarding a measure, may re-
 46 spond to the submittal by brief.

1 (5) At the discretion of the district court judge, a hearing may be or-
 2 dered within five (5) days of the filing of the appeal. All parties required
 3 to be served with the appeal may participate fully in the hearing. The judge
 4 may determine that the appeal may be decided on the brief without a hearing.

5 (6) A decision thereon shall be given within five (5) days. Any appeal
 6 from the decision of the district court must be taken within twenty-four (24)
 7 hours after a decision is rendered. A decision on the appeal shall be given
 8 within five (5) days. No further appeal shall be allowed.

9 SECTION 23. That Section 34-2309, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 34-2309. AUTOMATIC RECOUNT. A losing candidate for nomination, or
 12 election to a federal, state, or county office, or person supporting or
 13 opposing a ballot measure, may request a recount of the votes cast for the
 14 nomination or election to that office or passage or failure of a measure if
 15 the difference between the vote cast for that candidate and for the winning
 16 candidate for nomination or election, or the difference between the yes
 17 and no votes on a measure, is less than or equal to one-tenth of one percent
 18 (0.1%) of the total votes cast for that office. All requests shall be in
 19 writing, and filed with the attorney general during the time mentioned in
 20 section 34-2301, Idaho Code.

21 The state shall pay for the automatic recount of a federal, state, or
 22 legislative district office, or state measure while the county shall pay for
 23 the automatic recount of a county, city or district office or measure.

24 SECTION 24. That Chapter 23, Title 34, Idaho Code, be, and the same is
 25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 26 ignated as Section 34-2313, Idaho Code, and to read as follows:

27 34-2313. RECOUNT PROCEDURES FOR AUTOMATED TABULATION SYSTEMS. (1) To
 28 ensure the accuracy of automated vote tabulation systems, the county clerk
 29 shall follow the recount procedures provided in this section.

30 (2) The votes from a random selection of ballots shall be tallied by
 31 hand and the votes from the same ballots shall be tabulated by an electronic
 32 ballot tabulating system. For statewide and federal office or a statewide
 33 measure, the number of ballots to be tallied and tabulated shall be equal to
 34 at least two (2) precincts of the ballots cast in each county. For all other
 35 offices or measures, the number of ballots to be tallied and tabulated shall
 36 be equal to the greater of one hundred (100) or five percent (5%) of the bal-
 37 lots cast for the office or measure, distributed by county where applicable.

38 (3) For a statewide or federal office or a statewide measure, if the
 39 results of the hand-tally and the automated vote tally system tabulation
 40 within the county differ by one-fourth of one percent (.25%) or less, the re-
 41 maining ballots shall be recounted using automated vote tabulating systems.
 42 Otherwise, the remaining ballots shall be recounted by hand.

43 (4) For other offices and ballot measures, if the results of the hand-
 44 tally and electronic vote tabulating system tabulation differ by less than
 45 one percent (1%), or two (2) votes, whichever is greater, the remaining bal-
 46 lots shall be recounted using automated vote tabulating systems. Otherwise,
 47 the remaining ballots shall be recounted by hand.

1 SECTION 25. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.